



BHP Billiton Mitsubishi Alliance

3 June 2011

Mr. Keith Davies  
Coordinator-General  
Department of Employment, Economic Development and Innovation  
PO Box 15168, City East  
Queensland 4002

Dear Mr Davies

**Caval Ridge Mine Project – Application for Coordinator General to evaluate proposed changes to conditions**

As you know, BM Alliance Coal Operations Pty Ltd (BMA) is the proponent of the Caval Ridge Project (**Project**) and the Coordinator-General's report for the Project was issued on 9 August 2010 and change reports were subsequently issued by the Coordinator General in November 2010 and February 2011.

The reports contain imposed conditions which required BMA to take certain steps to undertake a Housing Study, Housing Plan and Social Impact Management Plan.

Prior to the Isaac Regional Council refusing the Buffel Park Accommodation Village Development Application, the construction phase of the Caval Ridge Mine was scheduled to commence in early 2012 for a duration of approximately 30 months and for the production of first coal in mid 2014. Time for construction commencement and first coal is now uncertain. Furthermore, the Housing Study has been identified by BMA as the critical path for the project timeline. As such, delays to the completion of the Housing Study beyond early July will increase further the uncertainty around timing for both construction and first coal.

Following recent consultations with the Office of Economic and Statistical Research (**OESR**) and the Office of the Coordinator-General, we understand that, for legal reasons, OESR is unable to be engaged by BMA to satisfy the requirements of the Coordinator-General's conditions (specifically, condition 18(f) of the imposed conditions in the August 2010 report).

This change request is being made following detailed negotiations with the OESR and the Office of the Coordinator General and the request reflects an agreed position between all parties.

This change request supersedes and replaces the request contained in the letter from Tony Willmott, Project Director Caval Ridge to the Coordinator-General dated 21 April 2011. See copy attached for ease of reference.

The reasons for this request are set out in more detail below.

This letter acts as a written application by BMA under Section 35C of the SDPWO Act and is set out in terms of the requirements of Section 35E of that Act.

### **DESCRIPTION OF THE PROPOSED CHANGES AND THEIR EFFECTS ON THE PROJECT (S35E(A))**

BMA is seeking to change conditions 10 and 18 in Appendix 1, Schedule 1 to the Report as follows.

#### **Condition 10 Social Impact Management Plan**

Replace:

- (a) Within three months of advertising of the draft environmental authority (EA) for the CRM, the proponent must submit a draft Social Impact Management Plan (SIMP) consistent with the *Social Impact Assessment (SIA) Unit, draft guideline and template requirements (2010)*, for review by the Coordinator-General prior to release. The SIMP must include:

With:

- (a) Within three months of submitting the BBCG Project Housing Impact Plan, the proponent must submit a draft Social Impact Management Plan (SIMP) consistent with the *Social Impact Assessment (SIA) Unit, 'Guideline to preparing a social impact management plan' (2010)*, for review by the Coordinator-General prior to release. The SIMP must include:

BMA submits that this change, relating only to the wording of an imposed condition and being administrative in nature, will not materially affect the Project.

#### **Condition 18 BBCG Project housing impacts study**

Replace:

- 18(f) The proponent must engage the Office of Economic and Statistical Research to undertake the "*BBCG Project Housing Impacts Study*" (including the CRM and Daunia Mine) which will provide an analysis of the impacts of each component of the BBCG project on the housing market in Moranbah or surrounding areas.

With:

- 18(f) The proponent must undertake a "*BBCG Project Housing Impacts Study*" (including the CRM and Daunia Mine) which will provide an analysis of the impacts of each component of the BBCG project on the housing market in Moranbah or surrounding areas.

Insert immediately after Condition 18(f) the following:

- 18(fa) The Coordinator-General will provide the proponent with the necessary data and information to enable the study to be undertaken.

Replace:

18 (h) The report for the study in (f) must be presented to the Coordinator-General on or before 2 May 2011

With:

18(h) The report for the study in (f) must be presented to the Coordinator-General who may request the OESR to review the study prior to approval by the Coordinator-General.

Replace:

18(i) If the Coordinator-General determines that the final study report in (h) does not meet the Terms of Reference approved under (g), then the report must be subsequently amended and presented to the Coordinator-General for approval within 20 business days of 2 May 2011

With:

18(i) If the Coordinator-General determines that the final study report in (h) does not meet the Terms of Reference approved under (g), then the report must be subsequently amended and presented to the Coordinator-General for approval.

Replace:

18(j) The results of the study in (f) must be made publicly available and be considered in future revisions of the CRM SIMP, with intellectual property rights of the data collected:

- (i) shared between BMA and OESR for data supplied by BMA; and
- (ii) retained by OESR for all other data.

With:

18(j) The results of the study in (f) must be made publicly available and be considered in future revisions of the CRM SIMP.

BMA submits that these changes, relating only to the wording of imposed conditions and being administrative in nature, have no material effect on the intention of the conditions, if amended as requested, as the Terms of Reference for the study remains the same and the OESR will continue to play an important data provision and review role. As explained below, the proposed changes reflect the agreed position between OESR and BMA and ensure that BMA is able to undertake the study in line with the intent of the condition.

### **BBCG housing impacts plan**

Replace:

18(n) The final draft of the plan in (k) must be presented to the Coordinator-General within four months of the date specified in 18(h)

With:

18(n) The final draft of the plan in (k) must be presented to the Coordinator-General within two months of approval of the report specified in (f)

Replace:

18(o) If the Coordinator-General determines that the final draft of the plan presented under (n) does not meet the Terms of Reference approved under (l), then the *report* must be subsequently amended and presented to the Coordinator-General for approval within 6 months of the date specified in Condition 18(h)

With:

18(o) If the Coordinator-General determines that the final draft of the plan presented under (n) does not meet the Terms of Reference approved under (l), then the plan

must be subsequently amended and presented to the Coordinator-General for approval within two months of the rejection of the initial draft plan presented in (n).

BMA submits that these changes, relating only to the wording of imposed conditions and being administrative in nature, will not materially affect the Project.

## **REASONS FOR THE CHANGE (S35E(B))**

### **Condition 10 – Social Impact Assessment**

The proposed change to Condition 10 (a) acknowledges the close interrelationship between the Social Impact Management Plan and the Housing Study and Plan. This change enables the mitigation strategies in the SIMP to be informed by the outcomes and recommendations of the imposed BBCG Housing Impact Plan (Condition 18k). Incorporation of the outcomes of the Plan is a requirement of Condition 18 (q) and delaying the release of the draft SIMP until after the Plan has been approved will reduce confusion and reduce the potential of consultation fatigue if the mitigation strategies change and need to be consulted on again. The proposed delay in releasing the draft SIMP for review will not impact on the ability to present a final SIMP for approval within 6 months of the commencement of construction as per Condition 10 (c).

### **Condition 18 – BBCG Housing Impact Study**

Following release of the Coordinator-General's Report in August 2010, BMA approached the OESR to begin discussions on how Condition 18 (f) could be implemented.

Following a period of negotiation, we understand the Coordinator-General and OESR received legal advice that it was not contractually possible to comply with Condition 18 (f) as it is currently worded. OESR are unable to be directly contracted by BMA to prepare a study and provide advice and recommendations which would then require approval by the Coordinator-General. To ensure that the intent of the condition is met (that is the preparation of a housing impact study with approved terms of reference) the following solution has been proposed by BMA and the OESR:

- BMA complete the *BBCG project housing impact study* based upon a terms of reference reviewed and agreed to by the BCN and approved by the Coordinator General.
- That the Coordinator-General engages OESR to provide data and advice to BMA in order for them to prepare the Study. The Coordinator-General will request the OESR to undertake a review of the draft Study.
- Intellectual property of all work performed by OESR will be retained by the Queensland Government. In return for the fee charged to the Coordinator General by OESR, BMA will be granted permission to utilise this work in the development of their Study and resultant Housing Plan.

It is BMA's belief that this proposed change is an optimal solution as it ensures that the study can take place in a timely manner and inform the outcomes of BMA's housing impact mitigation strategies as per Condition 18 (k). This solution maintains the integrity of the analysis through review by the OESR prior to approval by the Coordinator General. BMA has undertaken consultation with the BCN regarding the Study TOR and has responded to the comments received through this process.

**Condition 18 – BBCG Housing Impact Plan**

The intention of the proposed changes to the Housing Impact Plan components of Condition 18 is to align the delivery of the Housing Plan with the Housing Study.

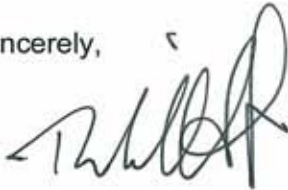
**CONSOLIDATED VERSION OF COORDINATOR-GENERAL'S REPORT**

Should the Coordinator-General favourably evaluate these changes, it is requested that a consolidated version of the Coordinator-General's report be issued incorporating these changes and the changes from the November 2010 change report and the February 2011 change report.

BMA looks forward to receiving the Coordinator General's change report. Should the Coordinator-General have diverging views on the changes sought we welcome the opportunity to consult with the Coordinator-General on any proposed changes.

Should you require any further information, please do not hesitate to contact me directly on 3167 5708.

Yours sincerely,



**Tony Willmott**  
Project Director – Caval Ridge Mine and Daunia Mine